

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

|                            |   |                                |
|----------------------------|---|--------------------------------|
| RICHARD WAYNE WRIGHT, SR., | ) |                                |
| AIS #187140,               | ) |                                |
|                            | ) |                                |
| Plaintiff,                 | ) |                                |
|                            | ) |                                |
| v.                         | ) | CIVIL ACTION NO. 2:05-CV-439-A |
|                            | ) |                                |
| SYLVESTER NETTLES, et al., | ) |                                |
|                            | ) |                                |
| Defendants.                | ) |                                |

**ORDER ON MOTION**

Upon review of the motion for harmless error filed by the plaintiff on December 29, 2005 (Court Doc. No. 101), which the court construes as a motion for leave to amend, and for good cause, it is

ORDERED that:

1. The motion to amend be and is hereby GRANTED to the extent that the plaintiff seeks to add Bobby Longshore, Sidney Williams, Nancy McCreary, Stephen McGill, Cliff Walker, Don McGriff and Jenifer Garrett as defendants with respect to actions undertaken in the denial of parole to the plaintiff on August 16, 2004.

2. The motion to amend be and is hereby GRANTED to the extent that the plaintiff seeks to add Mental Health Management ("MHM") as a defendant.

3. The motion to amend be and is hereby DENIED to the extent that the plaintiff seeks to name the MHM "team" as a defendant in this cause of action because such designation does not adequately identify specific individuals for purposes of service of

process.

4. The motion to amend be and is hereby DENIED to the extent that the plaintiff seeks to raise claims arising from an assault by correctional officers which occurred on November 23, 2005. The plaintiff is advised that if he seeks to challenge the actions taken against him on November 23, 2005 he may file a separate 42 U.S.C. § 1983 action.

5. Defendants Bobby Longshore, Sidney Williams, Nancy McCreary, Stephen McGill, Cliff Walker, Don McGriff, Jenifer Garrett and MHM shall undertake a review of the subject matter of the complaint, as amended, (a) to ascertain the relevant facts and circumstances; (b) to consider whether any action should be taken by prison officials to resolve the subject matter of the complaint; and (c) to determine whether other similar complaints, whether pending in this court or elsewhere, should be considered together.

**6. On or before February 3, 2006, a written report shall be filed with the court by the amended defendants containing the sworn statements of all persons having knowledge of the subject matter of the complaint, as amended. All defenses including immunity defenses must be set forth in the written report or such defenses may be waived.** Authorization is hereby granted to interview all witnesses, including the plaintiff. Whenever relevant, copies of medical and/or psychiatric records shall be attached to the written report. Where the plaintiff's claim or the defendants' defenses relate to or involve the application of administrative rules, regulations or guidelines, the written report shall include copies of all such applicable administrative rules, regulations or guidelines. **In addressing the claims**

**presented by the plaintiff, the defendants shall furnish copies of all documents, records and regulations relevant to the plaintiff's claims for relief.**

7. An answer be filed on or before February 3, 2006.

8. No motion for summary judgment, motion to dismiss or any other dispositive motions addressed to the complaint be filed by any party without permission of the court. If any pleading denominated as a motion for summary judgment, motion to dismiss or other dispositive motion is sent to the court, the court shall not file or otherwise treat the pleading as a dispositive motion until and unless further order of the court.

9. NOTICE TO PLAINTIFF.

(a) The *Federal Rules of Civil Procedure* require that the plaintiff mail to the lawyer for the defendants or, if no attorney has appeared on behalf of the defendants, the defendants themselves a true copy of **anything** which he sends to the court. Failure to do so may result in dismissal of this case or other penalties. Anything filed should contain a certificate of service which specifically states that the pleading has been sent to the lawyer for the defendants. If the pleading does not contain a certificate of service, it will not be accepted for filing.

(b) With the exception of the complaint and any response ordered by the court, “[n]o other pleading shall be allowed” in this cause of action. Rule 7(a), *Federal Rules of Civil Procedure*.

(c) Each pleading, motion or other application submitted to the court shall

contain "a caption setting forth the name of the court, title of the action, the file number, and a designation[,]" Rule 10(a), *Federal Rules of Civil Procedure*, and must be signed by the plaintiff. Rule 11(a), *Federal Rules of Civil Procedure*.

(d) Every application which requests an order or particular action by the court "shall be [presented] by motion which, unless made during a hearing or trial, shall be made in writing." Rule 7(b)(1), *Federal Rules of Civil Procedure*. The application "shall set forth with particularity the grounds" for the motion and "the relief or order sought." *Id.* Additionally, the request or application for relief must contain a proper caption setting forth a title designation which specifically states the action that the applicant or movant wants the court to undertake. Rules 7(b)(2) and 10(a), *Federal Rules of Civil Procedure*. Any application or request which fails to comply with the directives of the civil rules as outlined in this order will not be accepted by the court for filing.

**The plaintiff is hereby advised that the court will consider only those requests presented in an appropriate motion which is in the proper form. Consequently, any application for relief or request for action *must be contained in the title of the motion* to warrant consideration by the court.**

(e) No further amendments to the complaint will be allowed without permission of the court. The plaintiff is advised that the court will not allow any additional amendment to the complaint without a showing of exceptional circumstances. Additionally, any claims which the plaintiff seeks to amend must relate to the facts made the basis of the instant

complaint. Any motion which contains claim(s) unrelated to the claims presented in the original complaint will not be considered by the court.

The CLERK is hereby DIRECTED to furnish a copy of this order to the plaintiff and a copy of this order together with a copy of the amendment to the complaint to counsel of record for the defendants and to Bobby Longshore, Sidney Williams, Nancy McCreary, Stephen McGill, Cliff Walker, Don McGriff, Jenifer Garrett and Mental Health Management.

Done this 6<sup>th</sup> day of January, 2006.

/s/Charles S. Coody  
CHARLES S. COODY  
CHIEF UNITED STATES MAGISTRATE JUDGE